

STATE OF MICHIGAN  
COURT OF APPEALS

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TOWNSHIP OF GROVELAND,

Plaintiff/Cross-Defendant-Appellee,

v

ELSIE BOWREN and CINDY BOWREN,

Defendants/Cross-Plaintiffs,

and

LINDA RADEMACHER,

Defendant/Cross-Plaintiff-Appellant.

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UNPUBLISHED  
November 3, 1998

No. 175732  
Oakland Circuit Court  
LC No. 89-370464 CZ

AFTER REMAND

Before: Holbrook, P.J., and Sawyer and McDonald, JJ.

PER CURIAM.

This case involves a permanent injunction issued by the trial court in 1990 enjoining defendant Rademacher (hereinafter “defendant”) from operating a dog kennel on her property. The essential facts, set forth in *Twp of Groveland v Bowren*, unpublished opinion per curiam of the Court of Appeals, issued April 23, 1993 (Docket No. 135151), are:

Defendant owns more than sixteen acres of land in Groveland Township and it is zoned for agricultural use. After . . . defendant constructed a breeding and boarding kennel, . . . plaintiff sought an injunction against the kennel’s operation as a nuisance per se because it violated the zoning ordinance. The trial court found that the kennel was a nuisance per se. The trial court reasoned that the exclusion of kennels from [agricultural] . . . zones was not unconstitutional because the zoning ordinance provides for the establishment of kennels in local business zones. [*Id.* at 1.]

In our April 1993 opinion, we affirmed the granting of the permanent injunction, concluding that the ordinance was constitutional on its face. *Id.* at 1. We also declined to address (1) whether the ordinance was constitutional as applied to defendant, and (2) whether the

ordinance violated the Michigan Right to Farm Act, MCL 286.471 *et seq.*; MSA 12.122(1) *et seq.* (hereinafter “RFTA”), because those two issues were unpreserved, and because we found no miscarriage of justice. *Id.* at 2. Defendant then sought leave to appeal to the Michigan Supreme Court. In lieu of granting leave, the Supreme Court remanded the case to this Court for consideration as on rehearing granted. *Twp of Groveland v Bowren*, 445 Mich 908; 515 NW2d 740 (1994). We then “remand[ed] the matter to the trial court to permit it to make supplemental findings of fact and conclusions of law on” the remaining two issues. *Twp of Groveland v Bowren*, unpublished opinion per curiam of the Court of Appeals, issued September 26, 1994 (Docket No. 175732). Subsequently, the trial court held that the ordinance was not unconstitutional as applied, and that the ordinance did not violate the RFTA.

After reviewing the record, we affirm the trial court’s disposition of the case. As did the trial court, we reject defendant’s contention that her kennel is akin to a farming operation. Accordingly, we also reject defendant’s contentions that (1) because the kennel was located on land zoned for agricultural use, the application of the ordinance to defendant was arbitrary and capricious, *Delta Charter Twp v Dinolfo*, 419 Mich 253, 268; 351 NW2d 831 (1984); and (2) that the ordinance violates the RFTA. Furthermore, we note that “[b]ecause this cause of action was filed to enforce a zoning ordinance, the RFTA is not a defense.” *City of Troy v Papadelis (On Remand)*, 226 Mich App 90, 96; 572 NW2d 246 (1997).

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ David H. Sawyer

/s/ Gary R. McDonald